

July 3, 2018

**Subject:** 6-Month Enforcement Discretion Period Announced for Date of Service Exception

**CMS Announces 6-Month Period of Enforcement Discretion for Laboratory Date of Service Exception Policy Under the Medicare Clinical Laboratory Fee Schedule**

Today, the Centers for Medicare & Medicaid Services' Center for Medicare (CM) announced that it will exercise enforcement discretion until January 2, 2019, with respect to the laboratory date of service (DOS) exception policy at 42 CFR 414.510(b)(5) under the Medicare Clinical Laboratory Fee Schedule (CLFS). During the enforcement discretion period, hospitals may continue to bill for ADLTs and molecular pathology tests that would otherwise be subject to the new laboratory DOS exception. This enforcement discretion applies to providers and suppliers with regard to advanced diagnostic laboratory tests (ADLTs) and molecular pathology tests subject to the new laboratory date of service exception policy as adopted in the CY 2018 Medicare Hospital Outpatient Prospective Payment System/Ambulatory Surgical Center final rule published on December 14, 2017 (82 FR 59393).

Industry feedback suggests that many providers and suppliers will not be able to implement the new laboratory DOS exception by the July 2, 2018 implementation date established by Change Request 10419, Transmittal 4000 and that such entities require additional time to develop the systems changes necessary to enable the performing laboratory to bill for tests subject to the new laboratory date of service exception. This enforcement discretion period does not prevent performing laboratories prepared to bill Medicare directly for ADLTs and molecular pathology tests subject to the new laboratory DOS exception from doing so before January 2, 2019. However, in no case should both the hospital and the performing laboratory bill for the same test for the same beneficiary.

CMS is committed to the successful implementation of the new laboratory DOS exception policy and will provide guidance as necessary. For additional information on the new laboratory DOS exception policy and the specific laboratory test codes subject to the exception, please visit the CLFS website: <https://www.cms.gov/Medicare/Medicare-Fee-for-Service-Payment/ClinicalLabFeeSched/Clinical-Lab-DOS-Policy.html>.